

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 7776

Joint Petition of Green Mountain Power                   )  
Corporation and Vermont Electric Cooperative,        )  
Inc., for authority to condemn easement rights in     )  
property interests of Curtis Jacques and               )  
Lucienne Jacques, individually, and Curtis            )  
Jacques and Lucienne Jacques, Trustees under a     )  
Declaration of Trust, located in Westfield,           )  
Vermont, for the purpose of constructing the         )  
46 kV transmission line portion of the so-called     )  
Kingdom Community Wind Project                        )

Order entered: 10/19/2011

**ORDER RE: CLOSING DOCKET**

**I. REPORT**

On August 9, 2011, Green Mountain Power Corporation ("GMP") and Vermont Electric Cooperative, Inc. ("VEC," and collectively "the Petitioners"), filed a joint petition (the "Petition") with the Vermont Public Service Board ("Board") to request condemnation of certain property rights of Curtis Jacques and Lucienne Jacques, individually, and Curtis Jacques and Lucienne Jacques, Trustees under a Declaration of Trust (collectively the "Property Owners" or "Jacques"), on a parcel of land located in Westfield, Vermont, for the purpose of constructing a 46 kV transmission line with certain components of distribution underbuild within sections of an existing VEC 34.5 kV line right-of-way (the "Project"), related to the so-called Kingdom Community Wind Project. A prehearing conference in this Docket was held on September 28, 2011.

On October 7, 2011, the Petitioners filed a notice of Voluntary Dismissal of their Petition notifying the Board that all issues between GMP, VEC, and the Property Owners have been resolved. Voluntary dismissal of an action by the plaintiff is only available under V.R.C.P. 41(a)(1) before an adverse party serves an answer or a motion for summary judgment

(or by a stipulation signed by all the parties). Since proceedings had already commenced in this docket and I had conducted a prehearing conference, it is not clear that voluntary dismissal under V.R.C.P. 41(a)(1) is available.<sup>1</sup> Consequently, I will treat the notice as a motion for dismissal pursuant to V.R.C.P. 41(a)(2). Because it appears that the only prejudice arising from dismissal of this petition would be to the parties seeking condemnation of the Jacques' property (namely, GMP and VEC) and those parties are now requesting the dismissal, I conclude that the petition for condemnation may be dismissed and this docket closed.

This decision is not adverse to the interest of any party, so it need not be circulated to the parties pursuant to 3 V.S.A. § 811. This report is made to the Public Service Board pursuant to 30 V.S.A. § 8.

Dated at Montpelier, Vermont, this 19<sup>th</sup> day of October, 2011.

s/Jay E. Dudley

Jay E. Dudley  
Hearing Officer

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1. *See*, for example, Docket 7397 (Order of 11/13/2008); Docket 7419 (Order of 5/21/2009).

## II. ORDER

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED by the Public Service Board of the State of Vermont that:

1. The Report of the Hearing Officer is accepted.
2. The motion for dismissal is granted.
3. This docket shall be closed.

Dated at Montpelier, Vermont, this 19<sup>th</sup> day of October, 2011.

|                        |   |                |
|------------------------|---|----------------|
| <u>s/James Volz</u>    | ) |                |
|                        | ) |                |
|                        | ) | PUBLIC SERVICE |
| <u>s/David C. Coen</u> | ) |                |
|                        | ) |                |
|                        | ) | BOARD          |
|                        | ) |                |
|                        | ) | OF VERMONT     |
| <u>s/John D. Burke</u> | ) |                |

OFFICE OF THE CLERK

FILED:      October 19, 2011

ATTEST: s/Judith C. Whitney  
Deputy Clerk of the Board

*NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)*

*Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.*